

### **REMARKS**

The office action mailed August 14, 2009, and advisory action mailed November 12, 2009, have been carefully reviewed and these remarks are responsive thereto. Claims 1, 17, 41-43, 45, 46, 63, 81 and 84 have been amended, and claims 5, 6, 52, and 53 have been canceled without prejudice or disclaimer. Claims 1-4, 7-25, 29-48, 51, and 54-87 thus remain pending in this application. Reconsideration and allowance of the instant application are respectfully requested.

#### **Personal Interview**

Applicants wish to thank Examiner Amini for the courtesies extended to their representatives during the personal interview on November 6, 2009. Applicants agree with the Examiner's Interview Summary regarding the subject matter discussed; however, Applicants' representative did not concede at the interview, and do not concede now, to any claim interpretation that may be inferred from the examiner's interview summary regarding the scope or nature of the visual effect as recited in claim 1.

#### **Rejections under 35 U.S.C. §101 and §112**

Claims 84-87 originally stood rejected under 35 U.S.C. 101 and 35 U.S.C. 112, first paragraph. As indicated in the Advisory Action, the rejections have been overcome by the amendment filed on October 16, 2009.

#### **Rejections under 35 U.S.C. §103(a)**

Claims 1-11, 21-23, 33-35, 42-44, 46-58, 67-69, 76-68 and 84-87 stand rejected under 35 U.S.C. 103(a) as being unpatentable over DIG35 Specification Metadata for Digital Images version 1.0, by Digital Imaging Group, Inc. ("DIG") in view of Balabanovic et al. (U.S. Patent N. 6,976,229). Claims 12-20, 24-24, 29-32, 36-41, 45, 59-66, 70-75 and 79-83 stand rejected under 35 U.S.C. 103(a) as being unpatentable over DIG, Balabanovic et al., and in view of Delorme et al. (U.S. Patent No. 6,321,158). Applicants respectfully traverse.

The features of claims 5 and 6 have been substantially incorporated into independent claims 1, 41, 42, 45, 46 and 84. As discussed and tentatively agreed during the personal interview, the combination of Dig, Balabanovic, and Delorme fail to disclose the features of claim 6. Accordingly, Applicants respectfully submit that independent claims 1, 41, 42, 45, 46, and 84 are allowable. The remaining rejected claims depend from one of claims 1, 41, 42, 45, 46, and 84, and are distinguishable for at least the same reasons as their respective base independent claims, and further in view of the various features recited therein.

### **CONCLUSION**

For at least the foregoing reasons, the pending claims are believed allowable. If, however, the Examiner feels that additional discussion and/or amendment would be helpful, the Examiner is invited to telephone the Applicants' undersigned representative at the number appearing below.

Respectfully submitted,

**BANNER & WITCOFF, LTD.**

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